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SHANG, ANNAN Q	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOM GIAMMARRESI

Appeal 2009-011362
Application 09/458,897
Technology Center 2400

Before ALLEN R. MacDONALD, MARC S. HOFF and
CARLA M. KRIVAK, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Introduction

Appellant appeals under 35 U.S.C. § 134 from a rejection of claims 1 and 3-21. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claim(s)

Exemplary independent claim 1 under appeal reads as follows:

> Claim 1. A method of distributing and sharing processing loads and increasing fault tolerance between provider equipment and subscriber equipment of an interactive information distribution system, comprising the steps of:
>
> receiving, at a head-end, a request for video information from said subscriber equipment;
>
> executing a video session from at least one of plurality of managing modules on a primary head-end controller at said head-end;
>
> dedicating, at said head-end, at least one secondary head-end controller respectively having said at least one managing module as a resource for executing said video session, wherein said executing said video session comprises concurrently processing different sub-parts of session-state data of said video session at said primary head-end controller and said at least one secondary head-end controller using a distributed managing module associated with each of said primary head-end controller and said at least one secondary head-end controller;
>
> storing said session-state data from said executed video session on at least one storage device; and
>
> streaming, from a stream server, said video information to said requesting subscriber equipment during a normal mode of operation.

Appellant's Contentions

Appellant contends that the Examiner erred in rejecting claims 1 and 3-21, under 35 U.S.C. § 103(a) as being unpatentable over the combinations of Goldszmidt (US 6,195,680 B1) and Ohran (US 5,812,748) because these

references fail to teach or suggest concurrently processing different sub-parts of session-state data of said video session at said primary head-end controller and said at least one secondary head-end controller (App. Br. 13-14), and because:

> In summary, Ohran's computer backup system with duplicate mass storage devices simply does not suggest a method that includes concurrent processing of session-state data in the specific manner provided in Appellant's invention.
>
> As a result, even if Goldszmidt and Ohran were combined, the combination would fail to teach or suggest concurrently processing different sub-parts of session-state data of said video session at said primary head-end controller and said at least one secondary head-end controller. Rather the combination would only teach a back up system with two identical copies of each system, as taught by Ohran, wherein one system may switch over to the second system upon failure or requests may be balanced among servers within both systems, as taught by Goldszmidt. Notably, the combination fails to teach or suggest concurrently processing different sub-parts of session-state data of said video session at said primary head-end controller and said at least one secondary head-end controller. As a result, the Appellant respectfully submits that the combination of Goldszmidt and Ohran clearly fail to render obvious the Appellant's independent claims 1 and 11.

(App. Br. 15-16) (Emphasis omitted).

Issues on Appeal

Did the Examiner err in rejecting claims 1 and 3-21 as being obvious because the references fail to teach or suggest the claim limitations at issue?

ANALYSIS

We have reviewed the Examiners' rejections in light of Appellant's arguments that the Examiner has erred. We agree with Appellant's above contention.

CONCLUSIONS

(1) Appellant has shown that the Examiner erred in rejecting claims 1 and 3-21 as being unpatentable under 35 U.S.C. § 103(a).

(2) On this record, claims 1 and 3-21 have not been shown to be unpatentable.

DECISION

The Examiner's rejection of claims 1 and 3-21 is reversed.

REVERSED

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